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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Hiroaki TOKUDA et al.

Group Art Unit: 3781

Application No.: 10/528,660

Examiner: S. WEAVER

Filed: May 26, 2005

Docket No.: 123212

For: BLOW-MOLDED CONTAINER AND MOLD FOR USE IN BLOW MOLDING

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In reply to the February 18, 2009 Election of Species Requirement, Applicants provisionally elect the Species corresponding to Figures 21-23, claims 11-14, with traverse.

This Election of Species Requirement is strongly traversed since it is contrary to PCT rules. For example, Article 27 of the Patent Corporation Treaty requires that: "no national law shall require compliance with requirements relating to the form or contents of the international application different from or in addition to those which are provided for in this Treaty and the regulations."

Further, PCT Rule 13 requires that claims which encompass one single general inventive concept be searched and examined in the same international application. For example, PCT Rule 13.1 states: "the international application shall relate to one invention or to a group of inventions so linked as to form a single general inventive concept."

Furthermore, PCT Rule 13.4 expressly states that: "subject to Rule 13.1, it shall be permitted to include in the same international application a reasonable number of dependent claims claiming specific forms of the invention claimed in an independent claim, even where

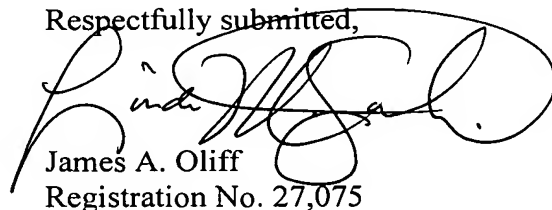
the features of any dependent claim could be considered as constituting in themselves an invention."

The Election of Species Requirement is a convention specific to U.S. National Patent Application Examination practice. PCT Rule 13.1 specifically contemplates the single examination of a group of inventions so linked as to form a single general inventive concept, and PCT Rule 13.4 specifically requires examination of species claims within a single general inventive concept. Nothing in the PCT or its rules permits issuing an Election of Species Requirement. Any United States practice (such an Election of Species Requirement) or interpretation of the rule which is different from or in addition to the unity of practice as delineated in PCT Unity Rules 13.1-13.4 is necessarily in violation of PCT Article 27. Species practice is not provided for under PCT Rules 13.1-13.4 and is contrary to PCT Article 27, and the present Election of Species Requirement is accordingly prohibited by Article 27.

The Examiner is respectfully requested to reconsider and withdraw the Election of Species Requirement and to examine all of the species and claims in this application.

Thus, withdrawal of the Election of Species Requirement is respectfully requested.

Respectfully submitted,



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JAO:SGS/ccs

Date: March 10, 2009

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